

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

**IN RE: ADA BOYCE
DEBTOR**

**CASE NO. 20-13054-JDW
CHAPTER 13**

**VANDERBILT MORTGAGE AND FINANCE, INC.,
Movant**

V.

**ADA BOYCE
Respondent**

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY, CO-DEBTOR STAY
AND ABANDONMENT OF PROPERTY OF THE ESTATE**

COMES NOW, Vanderbilt Mortgage and Finance, Inc. (“VMF”) pursuant to sections 105(a), 362(d), 554(b) and 1301 of the Bankruptcy Code; Bankruptcy Rules 4001 and 6007; and Local Rules 4001-1 and 6007-1, and hereby moves the Court for an order lifting the automatic stay and co-debtor stay and abandoning a manufactured home as to Ada Boyce (the “Debtor”), and in support thereof, respectfully represents:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding under 28 U.S.C. § 157(b).

2. Co-Debtor, Simoncia Boyce, is indebted to VMF under a Manufactured Home Retail Installment Contract Mississippi (the “Contract”) dated November 11, 1998. A copy of the Contract is attached as Exhibit A.

3. Co-Debtor’s indebtedness is secured by a 19989 Oakwood manufactured home (Serial No. 1205000) (the “Manufactured Home”). A copy of the Mississippi UCC-1 Financing Statement is attached as Exhibit B.

4. Debtor, upon information and belief, possesses an interest in the Manufactured Home and has been making payments on the Manufactured Home through her confirmed Chapter 13 Plan.

5. Upon information and belief, no other person or entity holds a lien on the Manufactured Home.

6. As of the petition date, Co-Debtor was in default of her obligations under the Contract and Chapter 13 Plan, and Co-Debtor and Debtor is currently behind in payment to VMF in the amount of \$565.35 plus attorneys' fees, costs and with interest and expenses continuing to accrue.

7. In accordance with sections 105(a), 362(d), 554(b) and 1301 of the Bankruptcy Code, good cause exists to lift the automatic stay and abandon the Manufactured Home to VMF for the following reasons: (a) Debtor has defaulted on payment obligations to VMF; (b) Debtor does not have any equity in the Manufactured Home; (c) the Manufactured Home is of inconsequential value and benefit to the estate; (d) VMF's interest in the Manufactured Home is not adequately protected; and (e) VMF's interest in the Manufactured Home would be irreparably harmed by continuation of the automatic stay.

8. VMF may have forwarded insurance premiums under the Contract on Debtor's behalf. Any refunds of the premiums that may have been paid by VMF on Debtor's behalf will be applied to Debtor's outstanding balance.

9. VMF requests that any order granting the relief requested herein be irrevocably binding regardless of any conversion of this case to a case under any other chapter of the Bankruptcy Code and that the order be binding notwithstanding any future bankruptcy filings by Debtor.

10. VMF requests that the 14-day stay prescribed by Federal Rule of Bankruptcy Procedure 4001(a)(3) be waived and that the order granting this Motion be effective immediately upon entry. Good cause exists for this waiver due to continued accrual of an increasing debt arrearage and ongoing violation of VMF's contractual rights.

WHEREFORE, VMF requests an order for relief from the automatic stay and to abandon property pursuant to 11 U.S.C. §§ 362, 554, and 1301, to terminate any other restraint against VMF exercising its rights as to its collateral and authorize VMF to take possession, sell, lease, or otherwise dispose of the Manufactured Home, and to waive the 14-day stay prescribed by Federal Rule of Bankruptcy Procedure 4001(a)(3). VMF prays for such other and general relief as this Court may deem just.

Dated: February 21, 2022

Respectfully submitted,

VANDERBILT MORTGAGE AND FINANCE INC.

/s/ Charles Frank Fair Barbour

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CERTIFICATE OF SERVICE

I certify that on this day I filed the Motion via the ECF/CM filing system, which sent electronic notice of the filing to all counsel of record, including the following:

Robert H. Lomenick, Jr. at rlomenick@gmail.com

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US Trustee at USTPRegion05.AB.ECF@usdoj.gov

And US Mail, postage prepaid to:

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/s/ Charles Frank Fair Barbour